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Warrantless Arrests Require a “Reasonable Cause to Believe”

COUNTY LAW UPDATE

by Mike Rainwater on 10/16/06

Law enforcement contacts requiring a citizen to involuntarily cooperate for more than 15 minutes are an “arrest” contact and require a “reasonable cause to believe.” Law enforcement contacts requiring a citizen to involuntarily cooperate for less than 15 minutes are a “stop & detain” contact that require a “reasonable suspicion.” Ark. R. Crim. Pro., Rules 4.1 - 4.6; 7.1 - 7.3.; Act 1207 of 2003.

Warrantless Felony Arrest: A law enforcement officer is authorized to arrest a person for a felony (without an arrest warrant) only when the officer has “reasonable cause to believe” that the person has engaged in *conduct* that is a felony. Ark. R. Crim. Pro., Rule 4.1.

Warrantless Misdemeanor Arrest: A law enforcement officer is authorized to arrest a person (without an arrest warrant) for a misdemeanor only when the person engages in misdemeanor *conduct* in the officer’s presence. Ark. R. Crim. Pro., Rule 4.1.

Warrantless Violation Arrest: According to Ark. R. Crim. Pro., Rule 4.1(a)(iii), the Sheriff and his deputies are authorized to arrest a person (without an arrest warrant) for a violation if when the person engages in violation *conduct* in the officer’s presence. Since the maximum penalty for a violation is a \$100.00 fine, it is recommended that the rule for a warrantless traffic offense arrest apply to all warrantless violation arrests. Either charge with a misdemeanor (if the facts fit) or issue a citation, just as you would routinely do for a traffic offense.

Warrantless Traffic Offense Arrest: A law enforcement officer is authorized to arrest a person (without an arrest warrant) for a traffic offense only when the officer has reason to believe that the person has engaged in *conduct* that is a traffic offense involving i) death or physical injury to a person or ii) damage to property or iii) DWI. Ark. R. Crim. Pro., Rules 4.1 - 4.6; 7.1 - 7.3. Otherwise, issue a citation for all traffic offenses.

Warrantless Domestic Disturbance Arrest: The Sheriff and his deputies are authorized to arrest a person (without an arrest warrant) for domestic abuse only when the officer has reason to believe that the person has committed acts that constitute domestic abuse (as defined by law) against a family or household member and which occurred within four (4) hours preceding the arrest if no physical injury was involved or twelve (12) hours preceding the arrest if physical injury (as defined in A.C.A. 5-1-102: physical impairment; substantial pain; or bruising, swelling, or visible marks associated with physical trauma) was involved.

“A Reasonable Cause to Believe” Defined: “Reasonably believes” or “reasonable belief” means that belief that an ordinary, prudent person would form under the circumstances in question and one not recklessly or negligently formed. A.C.A. 5-1-102(18). A reasonable cause to believe exists where facts and circumstances within the officer’s knowledge and of which he has reasonably trustworthy knowledge are sufficient in themselves to warrant a man of reasonable caution to conclude that an offense has been or is being committed. *McGuire v. State*, 265 Ark. 621, 580 S.W.2d 198 (1979). See Annotations to Ark. R. Crim. Pro., Rule 4.1.